

**BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF DELAWARE**

IN THE MATTER OF THE FORMAL	)	
COMPLAINT OF DAVID L. BENFER	)	
AGAINST DELMARVA POWER & LIGHT	)	COMPLAINT DOCKET NO. 15-1380
COMPANY REGARDING A RESTORATION	)	
DISPUTE (FILED SEPTEMBER 8, 2015)	)	

**EXCEPTIONS OF THE STAFF OF THE  
DELAWARE PUBLIC SERVICE COMMISSION TO THE  
HEARING EXAMINER’S FINDINGS AND RECOMMENDATION**

The Staff of the Delaware Public Service Commission (“Staff”), by and through its undersigned counsel, hereby files these written exceptions to the findings and recommendation of the Hearing Examiner as set forth in his report dated October 19, 2015 (the “HER”), and in support thereof states as follows:

**The Hearing Examiner committed legal error when he concluded that the Delaware Public Service Commission (“Commission”) lacks jurisdiction over Mr. David L. Benfer’s consumer complaint (the “Complaint”).**

1. The Hearing Examiner’s primary errors stem from his mistaken legal conclusions in paragraphs 5, 6, 7, 8, 9, 11, and 12. He mistakenly concluded that (i) case law and the Delaware Constitution show the Commission has no jurisdiction over the Complaint; (ii) Mr. Benfer requested a permanent injunction and since the Commission cannot award a permanent injunction, this request bars the Commission from having jurisdiction over the Complaint, and (iii) Mr. Benfer did not meet his burden of proof. All of these legal conclusions are incorrect and cannot support his recommendation and conclusion that the Commission lacks jurisdiction here. In addition, the Hearing Examiner has completely ignored the actual provisions of Delaware statutory law which specifically provide that the Commission has jurisdiction over both public

utilities (as entities themselves) and over their operations and practices. Finally, and most importantly, the Commission should determine for policy reasons that it possesses the proper legal authority to rule on the Complaint. If the Commission finds it has no jurisdiction over the Complaint, then Delmarva Power & Light Company (“Delmarva”) can hire contractors to excavate and install underground natural gas pipes and never be held responsible when such contractors cause damages to utility customers’ property. This Commission should determine such important policy decisions that involve how public utilities conduct their underground pipe installation practices and operations. It can do so by recognizing that it possesses jurisdiction over cases involving the issues presented in the Complaint.

**The Commission has jurisdiction over public utilities even when such utility hires another company to install underground pipes on its behalf.**

2. The Commission has jurisdiction over public utilities even when such utility hires another company to perform excavation work to lay underground natural gas pipes. As a regulated public utility, Delmarva cannot abdicate its duty to perform excavation in a safe and responsible manner and to restore property that it damages while excavating and installing underground pipes (whether damaged by the company itself or its contractor). But this is exactly what Delmarva attempts to accomplish in this proceeding. Here, Delmarva seeks to avoid its duty and responsibility to restore damaged property and does so by arguing Brandywine Construction Company (“BCCI”) is the party responsible for the damages. Under Delaware law, however, when one has undertaken to do a certain thing or to do it in a particular manner, he cannot, by employing a contractor, avoid liability for the resulting injuries.<sup>1</sup>

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<sup>1</sup>*Schagrin v. Wilmington Medical Center, Inc.*, 304 A.2d 61, 64 (Del. Super. 1973) (citing *Giusti v. C. H. Weston Co.*, 165 Or. 525, 108 P.2d 1010 (1941)) (party cannot, by employing independent contractor, avoid liability for injuries caused by contractor’s nonperformance of duties).

3. Delmarva owes a duty to perform excavations and pipe installations in a safe and responsible manner—especially when it does so in a public setting and on property owned by others. Here, Delmarva has the advantage (as a public utility) of accessing and excavating property to install and maintain its underground natural gas pipes. At the same time, however, it seeks to avoid liability if a contractor—at the direction of Delmarva—causes damages to an owner’s property. If the Commission were to allow Delmarva to avoid responsibility for any property damages caused by a public utility’s excavation work, such policy decision would result in dire consequences for all property owners. Delmarva would always hire contractors to perform its excavations and underground pipe installations and thereby avoid liability for any damages caused by such actions, even if such actions enable Delmarva to provide natural gas services to its existing and new customers. This is the type of public utility practice and operation that this Commission should regulate. And this Commission should determine that Delmarva cannot avoid liability for causing property damages when it excavates and installs underground natural gas pipes, whether it does such work using a contractor or not.<sup>2</sup>

**The actual language of Delaware statutory law gives the Commission jurisdiction over the Complaint.**

4. It is important to note that jurisdiction is a legal concept separate and apart from whether a party is entitled to any type of legal remedy. It is the initial analysis and basis for whether the Commission may move forward and act as the trier-of-fact (or allow a hearing examiner to act as the trier-of-fact) for any case. If the Commission possesses jurisdiction over the Complaint, the Commission can determine that Mr. Benfer is entitled to an evidentiary hearing, and the parties can present evidence at that hearing and make arguments based on the

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<sup>2</sup> Staff refers to its filed Opposition to Delmarva’s Motion to Dismiss for other legal arguments that support the reasons why this Commission has jurisdiction over the Complaint even though Delmarva used a contractor to perform the excavation and installation work on Mr. Benfer’s property.

facts. Once the hearing examiner has received and analyzed the evidence, he may conclude that either Mr. Benfer or Delmarva has prevailed in proving his or its legal claims and then—only after all of that effort—may the hearing examiner determine whether any remedy should be awarded to one party or the other. Hence, a legal remedy is more akin to the tail end of a legal case, while jurisdiction is the head attached to the body that enters the front door to justice. And as we all know, tails do not wag heads.

5. Here, based on the express language in the provisions of Delaware statutory law, the Commission possesses exclusive and original jurisdiction over the Complaint which alleged a regulated public utility<sup>3</sup> (Delmarva) caused property damages while laying underground natural gas pipes. Under the explicit terms of 26 *Del. C.* §201(a),<sup>4</sup> the Commission not only supervises and regulates the rates, property rights, equipment, facilities, etc., of all public utilities, but it also supervises and regulates *all public utilities* (i.e., the entities themselves). This jurisdictional power is necessary to carry out the provisions of Title 26 of the Delaware Code. Hence, 26 *Del. C.* §201(a) does not limit the Commission’s jurisdiction to only rates, services, and tariffs (as argued by Delmarva in its Motion to Dismiss). Rather, the Commission regulates a non-exclusive list of public utility issues that includes, among other items, the *operations and practices* of all public utilities.<sup>5</sup> Section 209(a)(1) of Title 26 shows this interpretation to be correct because that section provides that the Commission may fix just and reasonable *standards*,

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<sup>3</sup> 26 *Del. C.* §102(2) provides, in pertinent part, that a "public utility includes every ... corporation ... that now operates or hereafter may operate for public use within this state ... any natural gas, electric (excluding electric suppliers as defined in § 1001 of this title), water, wastewater (which shall include sanitary sewer charge), telecommunications (excluding telephone services provided by cellular technology or by domestic public land mobile radio service) service, system, plant or equipment.

<sup>4</sup> 26 *Del. C.* §201(a) provides, in pertinent part, that the Commission has “exclusive original supervision and regulation of all public utilities *and also over* their rates, *property rights, equipment, facilities* ... so far as may be necessary for the purpose of carrying out the provisions of this title.” (emphasis added)

<sup>5</sup> The operations and practices of a regulated public utility would most certainly include the method of how utility chooses to install underground pipes, i.e., whether it uses its own employees or hires a contractor to perform such work.

*practices, or services*, etc., to be furnished, imposed, observed, and followed by any public utility.<sup>6</sup>

6. Delaware case law interpreting 26 *Del. C.* §201(a) shows that the Legislature meant for the Commission to have exclusive and original jurisdiction in cases such as this one. Until 1974 the Commission's jurisdiction was defined in 26 *Del. C.* § 121, which pertinently provided: "The Public Service Commission shall have ***general supervision and regulation*** of all public utilities and also over their property, property rights, equipment, facilities and franchises...." (emphasis added). Based on this language, the Delaware Court of Chancery previously held in one case that the courts (and not the Commission) had jurisdiction to resolve a dispute over a utility's obligations to provide service to a customer.<sup>7</sup> The Court reached this conclusion because "there [was] nothing in the statute to indicate that such statutory grants [were] to be the exclusive remedy for a member of the public seeking redress from a public utility."<sup>8</sup>

7. In 1974, the Legislature amended Section 121 of Title 26, and Section 121 became the currently-existing version of 26 *Del. C.* §201(a). Based on the new language of the statute, the Delaware Court of Chancery held that the revised language ("exclusive original supervision and regulation of all public utilities" versus the former "general supervision and regulation of all public utilities") was critical and that the 1974 statutory revision "demonstrate[d] a legislative intent to invest in the Commission exclusive jurisdiction over all matters concerning supervision and regulation of public utility rates and services."<sup>9</sup> The

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<sup>6</sup> 26 *Del. C.* §209(a)(1) provides, in pertinent part, that the Commission may, after hearing, by order in writing, ***fix just and reasonable standards***, classifications, regulations, ***practices***, measurements or services ***to be*** furnished, imposed, ***observed and followed*** thereafter ***by any public utility***. (emphasis added)

<sup>7</sup> *Webb v. Diamond State Tel.*, 237 A.2d 143 (Del. Ch. 1967).

<sup>8</sup> *Id.* at 146.

<sup>9</sup> *Lipstein v. Diamond State Tel.*, C.A. No. 7763, Walsh, V.C., Slip. Op. at 6 (Del. Ch. Aug. 7, 1985), *aff'd*, 505 A.2d 453 (Del. 1986) (Order).

Delaware Supreme Court approved this decision on appeal and confirmed that the revised statutory language reflected the Legislature's intended jurisdiction for the Commission.

**Delaware Constitutional law does not apply here.**

8. In addition to misinterpreting the plain language of Delaware statutory law, the Hearing Examiner also mistakenly cited to a section of the Delaware Constitution that does not apply in this situation.<sup>10</sup> The section of the Delaware Constitution to which he cited (Delaware Constitution, Article IV, §14) does not, in fact, confer or deny to the courts the exclusive jurisdiction over cases involving injunctions or restraining orders *if the matter involves a public utility*. Rather, that section of the Delaware Constitution merely provides that if a Chancellor or Vice Chancellor is unavailable, a Superior Court Judge has the power to grant an injunction or order. More importantly, that section of the Delaware Constitution confirms that the section itself does not confer general jurisdiction over a case, including one that involves a public utility. Specifically, Section 14 states as follows:

Del. Constitution, Article IV, §14:

Section 14. The President Judge of the Superior Court or any Judge shall have power, in the absence of the Chancellor and all the Vice-Chancellors from the county where any suit in equity may be instituted or during the temporary disability of the Chancellor and all the Vice-Chancellors, to grant restraining orders, and the said President Judge or any Judge shall have power, during the absence of the Chancellor and all the Vice-Chancellors from the State or his or her and their temporary disability, to grant preliminary injunctions pursuant to the rules and practice of the Court of Chancery; ***provided that nothing herein contained shall be construed to confer general jurisdiction over the case.*** (emphasis added).

Thus, by its express terms, this section of the Delaware Constitutional does not purport to confer upon courts the exclusive jurisdiction over a case involving a public utility and one of its

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<sup>10</sup> See ¶6 of the HER.

customers. To rely on Section 14 of the Delaware Constitution as the basis for holding that the Commission does not possess jurisdiction over this case would be a grave error.

**The Hearing Examiner mistakenly relied on Title 26 in general to support his conclusion that the Commission lacks jurisdiction over the Complaint.**

9. This Commission cannot base its decisions on faulty reasoning that lacks legal analysis and legal support. Yet another reason why this Commission cannot affirm the Hearing Examiner's order stems from his reliance on Title 26 in general to support his conclusory statement that the Commission lacks jurisdiction over the Complaint. Under Delaware law, however, a state agency's lack of legal reasoning and analysis cannot be the basis for its decision.<sup>11</sup> In the HER, the Hearing Examiner cited in paragraph 6 to Title 26 in general—and to no particular section within it—as support for concluding that the Commission lacks jurisdiction here. This Commission should reject such deficient reasoning and conclude, instead, that it possesses jurisdiction over the Complaint.

**None of the Delaware cases cited by the Hearing Examiner support a conclusion that divests the Commission of jurisdiction over the Complaint.**

10. The Hearing Examiner also erred when he concluded that Delaware case law precluded the Commission from having jurisdiction over the Complaint. For example, the holding in *Artesian Water v. Cynwyd Club Apartments*,<sup>12</sup> does not bar the Commission's jurisdiction over this matter. As noted in *Georgia-Pacific Corp. v. Delmarva Power & Light Co.*,<sup>13</sup> *Cynwyd* does not support the overly broad proposition that a dispute between a customer and a utility must be adjudicated only by a court. Instead, that case upheld the Commission's statutory authority to regulate a utility's termination-of-services practices and to prohibit the

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<sup>11</sup> *Reise v. Board of Building Appeals of City of Newark*, 746 A.2d 271, 274 (Del. 2000) (when board failed to state reasons for its decisions, its decisions must be vacated on that basis alone).

<sup>12</sup> *Artesian Water v. Cynwyd Club Apartments*, 297 A.2d 387 (Del. 1972).

<sup>13</sup> *Georgia-Pacific Corp. v. Delmarva Power & Light Co.*, 1992 WL 396307, at \*4 (Del. Ch. Dec. 31, 1992).

utility from discontinuing service “in a specific case.”<sup>14</sup> That regulatory authority is firmly rooted in Title 26, §201(a) (the jurisdictional statute), §206 (authorizing the Commission to investigate complaints and hold hearings), and §209(a)(1) (authorizing the Commission to “[f]ix just and reasonable standards, classifications, regulations, practices, measurements or services to be furnished, imposed, observed and followed thereafter by any public utility”).

11. The holding in *Cynwyd* also demonstrates that even if even if a consumer complaint involves a billing dispute (or any other type of monetary dispute), the Commission still maintains jurisdiction over the matter if it involves a public utility or public utility issues (such as a public utility’s operations, practices, services, rates, etc.). For example, in *Cynwyd*, a customer refused to pay a water bill, and the utility threatened to discontinue service. The customer then filed a complaint with the Commission and asked it to stay the threatened discontinuance of water service and to adjudicate the billing dispute. The Commission ruled that because the customer's refusal to pay the bill was unwarranted, the utility could discontinue water service in accordance with the tariff. The Commission declined, however, to rule on the merits of the underlying billing dispute. On appeal the Delaware Supreme Court held that the Commission had jurisdiction to decide the service termination issue, but not to decide the billing dispute (which was an issue for a court to decide).<sup>15</sup> Hence, even if a consumer complaint involves a billing issue, the Commission still possesses jurisdiction over the other non-billing issues stated in a complaint.

12. As in *Cynwood*, the Complaint here involves an issue apart from a billing issue and apart from the request for any particular remedy. The Complaint involves how Delmarva (a regulated public utility) installs underground pipes and whether Delmarva’s routine practice

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<sup>14</sup> *Id.* at \*4; *Cynwyd*, 97 A.2d at 389.

<sup>15</sup> *Id.* at 388-90.



dictates that it will deny liability and responsibility for damaging a customer's property in the process. If, in fact, Delmarva's practice is to hire contractors to install underground pipes and to deny liability or responsibility if a customer's property is damaged in the process of such installation, this Commission has the authority to order that this practice stop or to order that such practice of outsourcing to contractors does not relieve Delmarva from damages caused during its underground pipe installations.

13. The Commission's order in *McHugh*<sup>16</sup> also does not show that this Commission lacks jurisdiction over this matter. The *McHugh* matter involved distinguishable facts from this matter. In *McHugh*, the Commission first upheld the hearing examiner's conclusion that under 26 Del. C. §201, "[t]he Commission clearly has authority over Tidewater as a public utility, and that authority may extend over its contracts under Section 201's inclusion of 'property rights.'"<sup>17</sup> It then concluded, however, that its jurisdictional limits did not include the authority to resolve a contractual dispute involving whether Mr. McHugh was entitled to free water from a company ("MHC") that owned the mobile home community in which McHugh lived. The Commission reached this conclusion because MHC was not a public utility, and the dispute between McHugh and MHC involved a contractual dispute between a landlord and a tenant. *Id.* As to Tidewater's water service agreement with MHC, the Commission also acknowledged that arguably that contract was within its jurisdiction; however, it declined to exercise such power of review because the existence of the contract alone did not bestow upon it the authority to determine whether the contract amended McHugh's lease with MHC.<sup>18</sup>

14. Here, the Complaint alleged that Delmarva, a regulated public utility, and BCCI, "acting on behalf of Delmarva," caused the depression of four sections of pavement on Mr.

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<sup>16</sup> *McHugh v. Tidewater Utilities, Inc.*, 2002 WL 31399462 (Del. P.S.C. March 19, 2002).

<sup>17</sup> *McHugh*, 2002 WL 31399462 at ¶22.

<sup>18</sup> *Id.*

Benfer's property because Delmarva was installing a gas line. Complaint, at ¶2. Consistent with the conclusions reached in the order for *McHugh*, the Commission has jurisdiction over this Complaint based on the provisions of 26 *Del. C.* §201(a) and because Delmarva is a regulated public utility. When a complaint alleges that a public utility has caused damages to a consumer's property in the course of installing underground pipes, the Commission may review such consumer's complaint as part of its jurisdiction and may determine whether sufficient facts exist to order a remedy for the damages. This conclusion holds true even if the public utility utilizes a contractor to accomplish the excavation and installation of its underground natural gas pipes.

**Mr. Benfer did not request a permanent injunction and even if he had requested one, that type of remedy does not divest the Commission of jurisdiction over the Complaint.**

15. The Hearing Examiner erred when he concluded that Mr. Benfer requested a permanent injunction and that this requested remedy divested the Commission of jurisdiction over the Complaint. First, Mr. Benfer never requested a permanent injunction. Second, the type of remedy a consumer requests does not exclusively determine whether the Commission does or does not possess jurisdiction over a consumer's case. In fact, even if a consumer requests an equitable remedy (or requests even money damages), the Commission still possesses jurisdiction to determine whether a regulated public utility has violated any laws, regulations, rules, orders, or tariffs. Third, the Commission has the power to award an equitable remedy such as a permanent injunction.<sup>19</sup> Thus, even if Mr. Benfer had requested a permanent injunction, the Commission has the power and authority to award this type of equitable remedy. Hence, the Commission has the proper legal authority to review the Complaint and issue a decision on it.

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<sup>19</sup> Mr. Benfer did not request a permanent injunction in the Complaint. In addition, a "permanent injunction" is not the proper equitable (or legal) remedy to correct the damages that Delmarva caused to Mr. Benfer's property.

16. Again, Mr. Benfer did not request a permanent injunction. In the Complaint, Mr. Benfer requested the following: "Relief is requested by replacement of the four sections of walk." Complaint, ¶3. An injunction can be issued by a court of equity (such as the Delaware Court of Chancery) "to restrain or compel conduct in those extraordinary situations where irreparable injury might result from delay or inaction."<sup>20</sup> Mr. Benfer did not request that a court issue an order stop to Delmarva from causing irreparable injury to his property. Instead, he requested that his property be repaired. The Commission can order this type of remedy and can order that Delmarva perform the repair.<sup>21</sup>

17. The Hearing Examiner mistakenly believed the sole remedy available for Mr. Benfer is a "permanent injunction" and that the Commission cannot issue this remedy, but the Commission does, in fact, have the power to order Delmarva to repair Mr. Benfer's property. Courts are not the only entities that have the power to issue equitable remedies. In fact, the Commission possesses this same legal power. In *Lipstein*,<sup>22</sup> the Court ruled that the Commission can grant relief equivalent to an injunction. The Court also concluded in a different, later case that the Commission has the power to grant equitable relief to a party in a case involving a dispute with a public utility (in that particular case, the public utility was Delmarva).<sup>23</sup> The Court reached this conclusion because public utilities are obligated to obey Commission orders, and therefore a public utility will presumably do so if ordered.<sup>24</sup> Hence, "as a practical matter no injunction may be needed at all."<sup>25</sup> In addition, the Court noted that the Commission is

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<sup>20</sup> *United Bonding Ins. Co. v. Stein*, 410 F.2d 483, 486 (3d Cir. 1969).

<sup>21</sup> See 26 Del. C. §212 which provides, in pertinent part, that the Commission may by written order after a duly noticed hearing "require every public utility to comply with the laws of this State ... and to conform to the duties imposed upon it thereby ...."

<sup>22</sup> *Lipstein v. Diamond State Tel.*, C.A. No. 7763, Walsh, V.C., Slip. Op. at 7 (Del. Ch. Aug. 7, 1985), *aff'd*, 505 A.2d 453 (Del. 1986) (Order).

<sup>23</sup> *Georgia-Pacific Corp.*, 1992 WL 396307, at \*8.

<sup>24</sup> . *Id.* at \*8.

<sup>25</sup> *Id.*

empowered (i) to fine a utility that defaults on a Commission order, and (ii) to compel observance of its orders “by mandamus or injunction in appropriate cases, or by an action to compel the specific performance of the orders so made....”<sup>26</sup>

18. Hence, the Commission has the power and authority to order an equitable remedy in cases such as this one. Moreover, a utility customer should be allowed to request an equitable remedy that orders Delmarva to restore the customer’s pavement because Delmarva or the contractor it hired caused the damages. The Commission can fashion such an equitable remedy, just as Mr. Benfer requested here (i.e., fix the pavement). Mr. Benfer did not request a permanent injunction and did not request any money damages. And regardless of the type of remedy he requested, such remedy has no bearing on whether the Commission initially possesses jurisdiction over Mr. Benfer’s case. To rule otherwise would misconstrue Delaware law.

**Mr. Benfer’s burden of proof does not apply at this stage of the proceedings and do not factor into whether the Commission has jurisdiction over the Complaint.**

19. The Hearing Examiner erroneously stated Mr. Benfer failed to meet his burden of proof.<sup>27</sup> The burden of proof is an evidentiary rule that does not apply when ruling on a party’s motion to dismiss, such as the one that Delmarva filed in this docket. When ruling on a motion to dismiss, the rules of procedure require the Hearing Examiner to accept as true all non-conclusory facts stated in the Complaint.<sup>28</sup> This is required under Delaware case law. Hence, because Delmarva filed a motion to dismiss, and because the Hearing Examiner was required to accept as true all of the non-conclusory facts in the Complaint, his conclusion that Mr. Benfer

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<sup>26</sup> *Id.*; 26 Del. C. §217 which provides, in pertinent part, as follows: “Observance of the orders of the Commission may be compelled by mandamus or injunction in appropriate cases, or by an action to compel the specific performance of the orders so made or of the duties imposed by law upon such public utility.”

<sup>27</sup> “Finally, Complainant David L. Benfer bears the Burden of Proof for his allegations in his Complaint. (See 29 Del. C. §10125(c) and 26 Del. Admin. C. §1001-2.12.3.). I find that he did not meet his Burden.” HER, at ¶11.

<sup>28</sup> *Loudon v. Archer-Daniels-Midland Co.*, 700 A.2d 135, 140 (Del. 1997) (court required to assume truthfulness of all well-pleaded allegations of complaint for purposes of motion); *Solomon v. Pathe Commc’ns Corp.*, 672 A.2d 35, 38 (Del. 1996) (when evaluating motion to dismiss, truthfulness of allegations in complaint is assumed); *Grobow v. Perot*, 539 A.2d 180, 187 n. 6 (Del. 1988).

failed to meet his burden of proof was a mistake that cannot be upheld by the Commission. Mr. Benfer has yet to have the opportunity to prove any facts unless or until the Commission allows him to proceed to an evidentiary hearing. Based on Delaware law, he is entitled to this step of the process.

## **CONCLUSION**

20. The Commission holds the exclusive and original jurisdiction over the Complaint based on Delaware statutory and case law. Because the Delaware Superior Court would find the legal conclusions reached in the HER to be “reversible error” on appeal, the Commission should *not* adopt the Hearing Examiner’s proposed HER or his proposed order. Instead, this Commission should determine that it possesses jurisdiction over the Complaint and allow Mr. Benfer to proceed to an evidentiary hearing. To hold otherwise would lead to an abhorrent policy of allowing regulated public utilities to abdicate their responsibilities to take care when excavating and installing underground natural gas pipes. Based on wording of the provisions of Delaware statutory law in Title 26, on the courts’ decisions in Delaware case law, and for policy reasons, this Commission does, in fact, possess the jurisdiction to make a determination on the Complaint. This Commission should therefore not adopt the recommendations in the HER and should allow Mr. Benfer to proceed to an evidentiary hearing.

21. Staff requests the opportunity to present oral argument on these exceptions pursuant to 26 *Del. Admin. C.* §1001-2.19.1.5.

Dated: November 9, 2015

Respectfully submitted,

/s/ Julie M. Donoghue

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**BEFORE THE PUBLIC SERVICE COMMISSION**  
**OF THE STATE OF DELAWARE**

IN THE MATTER OF THE FORMAL	)	
COMPLAINT OF DAVID L. BENFER	)	
AGAINST DELMARVA POWER & LIGHT	)	COMPLAINT DOCKET NO. 15-1380
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DISPUTE (FILED SEPTEMBER 8, 2015)	)	

**CERTIFICATE OF SERVICE**

I hereby certify that on November 9, 2015, I caused the attached **EXCEPTIONS OF THE STAFF OF THE DELAWARE PUBLIC SERVICE COMMISSION TO THE HEARING EXAMINER'S FINDINGS AND RECOMMENDATION** to be served by on all persons on the accompanying service list by both electronic email and via DelaFile.

Dated: November 9, 2015

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